

TEXAS OUT-OF-HOSPITAL DO-NOT-RESUCITATE ORDERS

PURPOSE: WHAT DOES THE OOHDR ORDER DO?

Allows patients to direct health care professionals in the out-of-hospital setting to withhold or withdraw specific life-sustaining treatments in the event of respiratory or cardiac arrest.

It is the patient's choice to execute an OOHDR Order; it cannot be made a requirement for any reason, including the issuance of insurance or the provision of health care. This OOHDR Order should be used in addition to Living Wills and Medical Power of Attorney for Health Care documents.

DEFINITIONS

There is no time related criteria; e.g. 6 months life expectancy.

Out-of-Hospital DNR Orders do not apply to known pregnant persons.

Must be honored by **health care professionals**

- Physicians
- Nurses
- EMS Personnel

An out-of-hospital setting is any setting outside of a licensed acute care hospital in-patient room in which health care professionals are called for assistance. Among these are:

- Home health
- Hospice
- Long-term care
- EMS
- Schools
- Malls, restaurants, homes, businesses, etc.
- Hospital emergency department, outpatient centers, etc.

Hospital emergency departments are included because the patient is not a hospital in-patient at this point; long-term care facilities and the like may also be considered out-of-hospital if the patient is not an admitted patient of the hospital. Both general hospitals and specialty hospitals are included in the definition of an "acute care hospital."

Life-sustaining procedures specifically address with the OOHDR Order are:

- Cardiopulmonary resuscitation (CPR)
- Defibrillation
- Advanced airway management
- Artificial ventilations
- Transcutaneous cardiac pacing

Respiratory or cardiac arrest ensues upon the cessation of spontaneous respirations or pulse.

WHO CAN EXECUTE THE ORDER?

A patient who is competent and who is an adult may execute a written OOHDNR Order at any time.

If a patient is incompetent but previously executed a Directive to Physicians, the physician may rely on the directive as the patient's instructions to issue an OOHDNR Order.

If a patient is incompetent but previously executed a Directive to Physicians, the designated proxy may make any decisions required.

If a patient is incompetent but previously executed a Medical Power of Attorney for Health Care (MPAHC) designating an agent, the agent may make any decision required.

A patient who is competent and who is an adult may issue an OOHDNR Order by nonwritten communication.

The following may execute on OOHDNR Order on behalf of a minor (*a person who has not reached their 18th birthday*):

- Parents
- Legal guardian
- Managing conservator

If a patient is comatose, incompetent, or otherwise mentally or physically incapable of communication, the person's legal guardian, proxy, or MPAHC agent may execute an OOHDNR Order.

If a patient does not have a legal guardian, proxy, or MPAHC agent, the attending physician and a second physician not involved in treating the patient may execute an OOHDNR Order based on the knowledge of what the patient would have desired.

In all cases the desire of a patient who is competent supersedes the effect of an OOHDNR Order.

PROCEDURE FOR EXECUTION

The patient or the patient's representative is responsible for contacting his or her physician or health care provider for assistance on executing this order.

The attending physician is required to complete section 4 **and** sign the bottom of the form. This doctor will document the existence of an OOHDNR Order in the patient's medical record.

If the attending physician refuses to execute or comply with the OOHDNR Order, the physician must inform the patient or patient representative and make a reasonable attempt to transfer the care of the patient to a physician who is willing to execute or comply with the order.

At the same time and place **or** at a separate time and place, the patient or patient's representative and the witnesses should complete 1, 2, 3 **and** the remainder of the signature lines at the bottom of the form.

The instructions for the completion of the OOHDNR Order should be referenced during execution of the order.

The patient **may choose, but can not be required, to wear** an official ID device.

STANDARDIZED FORM

Review the form;

- Section 1 Patient demographics
- Section 2 Execution information
- Section 3 Witnesses
- Section 4 Physician statement
- Bottom of form; all signatures

So that the form is available for filing upon the death of the patient, the original or a copy of the form must travel with the patient during interfacility transfers. Upon the death of the patient, the health care provider having the last patient contact shall file the OOHDNR Order in the patient's medical records.

If no health care provider is present upon the death of the patient and someone other than a health care provider handles disposition of the body, the document may be retained by the family or returned to the patient's primary health care provider.

HONORING THE ORDER

The Out-of-Hospital DNR statute specifically states, "When responding to a call for assistance, health care professionals shall honor an out-of-hospital DNR order in accordance with the statewide protocol..."

PATIENT IDENTIFICATION

Health care providers identify patients as having an OOHDNR Order when the:

Original or copy of the form is present and appears valid, **OR** patient is wearing an approved ID device. The patient must have a valid form in place to wear an approved ID device.

PATIENT CARE DOCUMENTATION MUST INCLUDE:

- Confirmation that an OOHDNR Order was presented and what format was accepted
- Any problems accepting the OOHDNR Order
- Name of the patient's attending physician
- Name, address, and phone number of witnesses used for patient identification

REVOCATION

The OOHDNR Order may be revoked when:

- **The Patient** or someone with the patient and on the patient's direction destroys form and removes any ID device
- **The Person executing order** or someone in this person's presence and at the person's direction destroys form and removes any ID device
- **The Patient communicates** their intent to revoke
- **The Person executing order orally states** their intent to revoke.

The OOHDNR Order is automatically revoked in cases of:

- Known pregnancy of the patient
- Suspected criminal activity involving the patient

PROTOCOL DEVELOPMENT

Local protocols must be written which includes:

- Copy of the Texas Out-of-Hospital DNR Order document
- Explanation of the identification devices
- On-site conflict resolution process, including physician contact

In the event of an on-site conflict, the Texas Department of Health (TDH) recommends health care providers start or continue resuscitation, until a verbal order is given by medical control, the attending physician, etc.

PROTOCOL CONSIDERATIONS

- Transport guidelines

TDH recommends EMS providers who recognize an OOHDNR Order while transporting a patient withhold or withdraw life-sustaining efforts upon discovery of the order and continue transport to the receiving hospital where they or hospital personnel complete body disposition.

- Body Disposition

Follow local protocols regarding notification of the physician for the purpose of signing the death certificate and for notification of the coroner's office or funeral home.

- Notification of local authorities

According to the TDH Bureau of Vital Statistics, there is no state law that requires notification of local law enforcement authorities when a death occurs. However, there may be local laws that do require such notification or has other requirements. You should be familiar with the laws relating to the out-of-hospital deaths in your area. Contact your local Justice-of-the-Peace, police department, or sheriff's department for guidance relating to the issue.

According to a representative of the Texas Justice of the Peace Association, Texas Justices of the Peace are only responsible for deaths in which the circumstances mandate an inquest. Normally deaths that occur under a valid Out-of-Hospital DNR Order do not meet the requirements for an inquest. In this situation, the death is expected, occurs due to natural causes and the patient is under the care of a physician. Therefore, an inquest would not be required. **The requirements are listed in Article 49.04 of the Texas Criminal Procedures.*

PALLIATIVE CARE

All health care providers should have provisions for palliative care on place. This includes comfort care and pain control.

It is appropriate that at the moment of death, although the cessation of spontaneous respiration or pulse may have not yet occurred (but it is obvious this is the moment of death) and the health care provider has identified a valid OOHDNR Order, only palliative care should be initiated (and not those life sustaining procedures) as directed by local protocols.

This is a new concept on patient care for many groups. Patient should not be transferred (to hospitals) simply to die. Patients should be allowed to die with dignity and comfort within their own home. This includes surrogate homes also, such as long-term care facilities. For agencies that do not have existing palliative care protocols, TDH suggests that relationships with area hospice providers be pursued for sharing resources and ideas. The Texas Hospice Association is available to assist providers with these resources.

REPORTING REQUIREMENTS FOR HEALTH CARE PROVIDERS

All out-of-hospital health care providers are required to report specific information regarding OOHDNR Order encounters to the TDH Bureau of Emergency Management on an annual basis. This reporting requirement was phased in beginning in January 1999 with the first report due in 2000. Therefore, reports are due each January, i.e. statistics for the year 2000 are due January 2001, etc. If there were no encounters, no report should be made.

Reports should include:

- Number of OOHDNR Orders encountered by staff
How many Out-of-Hospitals DNR orders did your agency encounter to life threatening situations? This number should include the number of DNR Orders you were presented and honored, as well as those presented and not honored. Do not include patient education sessions and the like.
- Number of OOHDNR Orders you were unable to comply with
Provide brief detail, if available
- General problems with the standardized format
How can the form and process be improved?

OUT-OF-STATE ORDERS

Personnel may accept an OOHDNR Order or device that has been executed in any other states, if there is no reason to question the authenticity of the order or device.

AVAILABILITY OF OOHDNR ORDERS AND DEVICES

OOHDNR Orders forms can be downloaded off of TDH's website at www.tdh.state.tx.us/hcqs/ems/dnrhome.htm. Forms and vinyl bracelets are available to health care providers through the Texas Medical Association. Information can be obtained by calling (512) 370-1306. Metal devices

can be ordered from either MedicAlert Foundation at (800) 755-1448 or American Medical Identifications at (800) 363-5985. This information is also available on TDH's website.

The Texas Association for Home Care has materials available for their members. The Texas Hospice Association has materials available in single packets. Other groups may also choose to provide or distribute materials to health care providers.

TDH does NOT recommend EMS providers act as distribution points; EMS does not normally hold relationships with patients and their traditional providers of health care.

For a list of providers of devices and to print a copy of the form, go to www.tdh.state.tx.us/hcqs/ems and click on DNR.

SHORTFALLS

This process will not:

- Be foolproof
- Prevent unnecessary EMS responses
- Prevent litigation

MYTHS

1. ***“The patient doesn’t have a right to tell me what to do.”***

The 14th amendment of the US Constitution relates to due process and right to privacy.

The federal Patient Self-Determination Act mandates patients be given a choice.

The Karen Ann Quinlan case resulted in the “right to die” doctrine.

2. ***“An OOHDNR Order means don’t do anything.”***

The statute specifically addresses the provision of palliative care.

The OOHDNR Order becomes effective upon the cessation of spontaneous respiratory and/or circulatory effort.

3. ***“The OOHDNR Order is a mechanism to assist suicide.”***

Chapter 674 states “Honoring an Out-of-Hospital DNR Order does not constitute offense of aiding suicide.”

Chapter 674 states mercy killing is not condoned.

4. ***“I have no legal obligation to follow orders.”***

Chapter 674 states “When responding to a call for assistance, health care professionals shall honor an Out-of-Hospital DNR Order in accordance with the statewide DNR protocol.” There are also provisions for actions to be taken against providers who don’t honor valid OOHDNR.